

WIFIA MASTER AGREEMENT

for the

SCVWD MASTER PROGRAM FOR SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION

Effective Date: February [13], 2023

and

WIFIA LOAN AGREEMENT

for the

**SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM – PROJECT 1
(WIFIA ID – 21116CA) (the “Project”)**

WIFIA Loan Agreement Effective Date: February [13], 2023

Closing Deliverables Checklist

<u>Parties</u>	
Designation	Party
Borrower	Santa Clara Valley Water District Public Facilities Financing Corporation
District	Santa Clara Valley Water District
WIFIA Lender	United States Environmental Protection Agency (acting by and through the Administrator of the Environmental Protection Agency)

<u>Counsel</u>	
Designation	Party
Borrower GC	General Counsel to the Borrower
District GC	General Counsel to the District
Stradling	Stradling Yocca Carlson & Rauth, bond counsel to the Borrower and District
Shearman	Shearman & Sterling LLP, counsel to WIFIA Lender

Defined Terms and Section References: Except as otherwise specified herein, all capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the WIFIA Master Agreement and all section references are to the WIFIA Master Agreement.

PART I: WIFIA MASTER AGREEMENT

Closing Room Number		Item / Document	Responsible Party	Signatory	Document Reference	Status / Comments
	A.	WIFIA LOAN DOCUMENTS				
1.	1.	WIFIA Master Agreement (“WMA”)	Shearman / Stradling	<input type="checkbox"/> Borrower <input type="checkbox"/> District <input type="checkbox"/> WIFIA Lender	WMA 11(a)(i)	S&S draft circulated 10/3/22. Shearman to circulate updated draft.
		Schedule I – Master Program Schedule	Borrower / District			District comments received 1/27/23.
		Schedule II – Master Program Budget	Borrower / District			District comments received 1/27/23.
		Schedule 7(d) – Flow of Funds	Shearman / Stradling			Complete.
		Schedule 12(f) – Litigation	Borrower / District			Complete.
		Exhibit A – Form of WIFIA Note	Shearman / Stradling			Agreed form.
		Exhibit B – Requisition Procedures	WIFIA Lender / Shearman			Agreed form.
		Exhibit C – Form of Certification of Eligible Project Costs Documentation	Shearman / Stradling			Agreed form.
		Exhibit D – Form of WIFIA Loan Request	Shearman / Stradling			Agreed form.
		Exhibit E-1 – Form of Opinion of Borrower’s General Counsel	Shearman / Borrower GC			Agreed form.

Closing Room Number		Item / Document	Responsible Party	Signatory	Document Reference	Status / Comments
		Exhibit E-2 – Form of Opinion of Borrower’s Bond Counsel	Shearman / Stradling			Agreed form.
		Exhibit E-3 – Form of Opinion of District’s General Counsel	Shearman / District GC			Agreed form.
		Exhibit E-4 – Form of Opinion of District’s Bond Counsel	Shearman / Stradling			Agreed form.
		Exhibit F-1 – Form of Closing Certificate of Borrower	Shearman			Agreed form.
		Exhibit F-2 – Form of Closing Certificate of District	Shearman			Agreed form.
		Exhibit F-3 – Form of Project Closing Certificate of Borrower	Shearman			Agreed form.
		Exhibit F-4 – Form of Project Closing Certificate of District	Shearman			Agreed form.
		Exhibit G – Form of Certificate of Substantial Completion	Shearman			Agreed form.
		Exhibit H – Form of Construction Monitoring Report	Shearman			Agreed form.
		Exhibit I – Form of Public Benefits Report	WIFIA Lender / Borrower			See II.E.7.
		Exhibit J – Form of WIFIA Project Term Sheet	WIFIA Lender / Borrower			Agreed form.
		Exhibit K – Form of WIFIA Loan	Shearman / Stradling			Agreed form.

Closing Room Number		Item / Document	Responsible Party	Signatory	Document Reference	Status / Comments
		Agreement				
		Exhibit L – Form of WIFIA IPA	WIFIA Lender / Borrower			Agreed form.
2.	2.	Master Resolution	District	<input checked="" type="checkbox"/> District	WMA 11(a)(ii)	Complete.
3.	3.	WIFIA District Resolution	District	<input checked="" type="checkbox"/> District	WMA 11(a)(iv)	Complete.
4.	4.	WIFIA Borrower Resolution	Borrower	<input checked="" type="checkbox"/> Borrower	WMA 11(a)(v)	Complete.
	C.	OPINIONS				
5.	1.	Opinion of Borrower’s Counsel	Borrower GC	<input type="checkbox"/> Borrower GC	WMA 11(a)(vi) (WMA Exhibit E-1)	Agreed form.
6.	2.	Opinion of Borrower’s Bond Counsel	Stradling	<input type="checkbox"/> Stradling	WMA 11(a)(vi) (WMA Exhibit E-2)	Agreed form.
7.	3.	Opinion of District’s Counsel	District GC	<input type="checkbox"/> District GC	WMA 11(a)(vi) (WMA Exhibit E-3)	Agreed form.
8.	4.	Opinion of District’s Bond Counsel	Stradling	<input type="checkbox"/> Stradling	WMA 11(a)(vi) (WMA Exhibit E-4)	Agreed form.

Closing Room Number		Item / Document	Responsible Party	Signatory	Document Reference	Status / Comments
	D.	CERTIFICATES				
9.	1.	Borrower Closing Certificate	Borrower / Stradling	<input type="checkbox"/> Borrower	WMA 11(a)(vii) (WMA Exhibit F-1)	Agreed form.
		Annex A – Form of Incumbency Certificate				
10.	2.	District Closing Certificate	District / Stradling	<input type="checkbox"/> District	WMA 11(a)(viii) (WMA Exhibit F-2)	Agreed form.
		Annex A – Form of Incumbency Certificate				
11.	3.	Incumbency Certificate of Borrower	Borrower	<input type="checkbox"/> Authorized Signatories <input type="checkbox"/> Borrower	WMA 11(a)(vii) (WMA Annex A to Exhibit F-1)	Attached as Annex A to the Borrower Closing Certificate.
12.	4.	Incumbency Certificate of District	District	<input type="checkbox"/> Authorized Signatories <input type="checkbox"/> District	WMA 11(a)(viii) (WMA Annex A to Exhibit F-2)	Attached as Annex A to the District Closing Certificate.

Closing Room Number		Item / Document	Responsible Party	Signatory	Document Reference	Status / Comments
	E.	MISCELLANEOUS DELIVERABLES				
13.	1.	Borrower's Organizational Documents	Borrower		WMA 11(a)(iii)	Complete.
14.	2.	District's Organizational Documents	District		WMA 11(a)(iii)	Complete.
15.	3.	Payment of all invoices delivered by WIFIA Lender	District		WMA 11(a)(ix)	Complete (none).
16.	4.	Establishment of WIFIA Debt Service Account and the pledge thereof for the sole benefit of the Borrower	District		WMA 11(a)(x)	Complete.
17.	5.	Investment Policy	District		WMA 11(a)(xi)	Complete.
	F.	CERTIFICATIONS				
	1.	Representations and warranties of Borrower are true and correct	Borrower		WMA 11(a)(vii)(A)	Certification included in the Borrower Closing Certificate.
	2.	No Borrower MAE, or any event or condition that could reasonably be expected to have a Borrower MAE, has occurred or arisen since the date of the Application	Borrower		WMA 11(a)(vii)(B)	Certification included in the Borrower Closing Certificate.
	3.	District has (x) obtained a FEIN, (y) obtained a Unique Entity Identifier, and (z) registered with,	District		WMA 11(a)(viii)(A)	Complete (Renewed registration received from District on 1/5/2023). Attached as Annex B-1 and Annex B-2 to the District Closing Certificate.

Closing Room Number		Item / Document	Responsible Party	Signatory	Document Reference	Status / Comments
		and obtained confirmation of active registration status from, SAM				Certification included in the District Closing Certificate.
	4.	Representations and warranties of District are true and correct	District		WMA 11(a)(viii)(B)	Certification included in the District Closing Certificate.
	5.	No District MAE, or any event or condition that could reasonably be expected to have a District MAE, has occurred or arisen since the date of the Application	District		WMA 11(a)(viii)(C)	Certification included in the District Closing Certificate.

PART II: WIFIA Loan Agreement (Project 1)

Closing Room Number		Item / Document	Responsible Party	Signatory	Document Reference	Status / Comments
	A.	WIFIA LOAN DOCUMENTS				
18.	1.	Project Term Sheet	Shearman / Stradling	<input type="checkbox"/> Borrower <input type="checkbox"/> District <input type="checkbox"/> WIFIA Lender	WMA 11(b)(ii)(A)	District comments received 1/27/23.
19.	2.	WIFIA Loan Agreement (“WLA”)	Shearman / Stradling	<input type="checkbox"/> Borrower <input type="checkbox"/> District <input type="checkbox"/> WIFIA Lender	WMA 11(b)(ii)(B)	District comments received 1/27/23.
		Schedule I – Project Budget	Borrower / District			District comments received 1/27/23.
		Schedule II – Construction Schedule	Borrower / District			District comments received 1/27/23.
		Schedule III – Project	Borrower / District / WIFIA Lender			District comments received 1/27/23.
		Schedule 13(m) – Existing Construction Contracts	Borrower / District			Complete (none).
		Exhibit A – WIFIA Loan Amortization Schedule	WIFIA Lender			WIFIA Lender to provide on the WIFIA Loan Agreement Effective Date.
20.	3.	WIFIA IPA	Shearman / Stradling	<input type="checkbox"/> Borrower <input type="checkbox"/> District	WMA 11(b)(ii)(C)	Agreed form.
21.	4.	WIFIA Note	Borrower / Stradling	<input type="checkbox"/> Borrower	WMA 11(b)(iii)	Stradling draft provided 1/19/2023. Stradling to provide updated draft.

Closing Room Number		Item / Document	Responsible Party	Signatory	Document Reference	Status / Comments
					(WMA Exhibit A)	
	C.	OPINIONS WITH RESPECT TO PROJECT				
	1.	Opinion of Borrower's Counsel	Borrower GC	<input type="checkbox"/> Borrower GC	WMA 11(b)(v) (WMA Exhibit E-1)	See I.C.1.
	2.	Opinion of Borrower's Bond Counsel	Stradling	<input type="checkbox"/> Stradling	WMA 11(b)(v) (WMA Exhibit E-2)	See I.C.2.
	3.	Opinion of District's Counsel	District GC	<input type="checkbox"/> District GC	WMA 11(b)(v) (WMA Exhibit E-3)	See I.C.3.
	4.	Opinion of District's Bond Counsel	Stradling	<input type="checkbox"/> Stradling	WMA 11(b)(v) (WMA Exhibit E-4)	See I.C.4.
	D.	CERTIFICATES WITH RESPECT TO PROJECT				
22.	1.	Borrower Project Closing Certificate	Borrower / Stradling	<input type="checkbox"/> Borrower	WMA 11(b)(vii) (WMA Exhibit F-3)	Agreed form.
23.	2.	District Project Closing Certificate	District / Stradling	<input type="checkbox"/> District	WMA 11(b)(viii) (WMA Exhibit F-4)	Agreed form.

Closing Room Number		Item / Document	Responsible Party	Signatory	Document Reference	Status / Comments
	E.	MISCELLANEOUS DELIVERABLES				
	1.	WIFIA Loan Request	District		WMA 11(b)(i)	Not required for Project 1.
	2.	Related Documents (other than WIFIA Loan Documents)	Borrower / District		WMA 11(b)(iv)	Complete (no other Obligation Document).
	3.	Each Existing Construction Contract with respect to the Project, together with any amendments, waivers or modifications thereto	Borrower / District		WMA 11(b)(iv)	Complete (none).
	4.	Project Budget for the Project	Borrower / District		WMA 11(b)(vi)	<i>See Schedule I to WLA.</i>
24.	5.	Evidence of assignment from at least 1 Nationally Recognized Rating Agency of a public Investment Grade Rating on the WIFIA Loan (including at least one public rating)	Borrower	<input checked="" type="checkbox"/> Fitch	WMA 11(b)(ix)	Complete.
	6.	Most recent Updated Financial Model/Plan	District		WMA 11(b)(x)	Complete.
25.	7.	Public Benefits Report	District		WMA 11(b)(xi)	Borrower comments to WIFIA Lender draft received on 12/1/22.
	8.	Any outstanding Servicing Fees due and all invoices delivered by the WIFIA Lender to the District	District		WMA 11(b)(xii)	Complete (none).

Closing Room Number		Item / Document	Responsible Party	Signatory	Document Reference	Status / Comments
	F.	CERTIFICATIONS				
	1.	As of the WIFIA Loan Agreement Effective Date, (x) the maximum principal amount of the WIFIA Loan, together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed 49% of reasonably anticipated Eligible Project Costs; and (y) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed 80% of Total Project Costs	Borrower		WMA 11(b)(vii)(A)	Certification included in the Borrower Project Closing Certificate.
	2.	Borrower has obtained a WIFIA CUSIP Number	Borrower		WMA 11(b)(vii)(B)(1)	Received CUSIP confirmation email. Certification included in the Borrower Project Closing Certificate.
	3.	Representations and warranties of Borrower are true and correct	Borrower		WMA 11(b)(vii)(C)	Certification included in the Borrower Project Closing Certificate.
	4.	No Borrower MAE, or any event or condition that could reasonably be expected to have a Borrower MAE, has occurred or arisen since the Effective Date	Borrower		WMA 11(b)(vii)(D)	Certification included in the Borrower Project Closing Certificate.
	5.	As of the WIFIA Loan Agreement Effective Date, (x) the maximum principal amount of the WIFIA Loan, together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed 49% of	District		WMA 11(b)(viii)(A)	Certification included in the District Project Closing Certificate.

Closing Room Number		Item / Document	Responsible Party	Signatory	Document Reference	Status / Comments
		reasonably anticipated Eligible Project Costs; and (y) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed 80% of Total Project Costs				
	6.	District is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project	District		WMA 11(b)(viii)(B)	Complete. Certification included in the District Project Closing Certificate.
	7.	District has maintained (x) the FEIN, (y) the Unique Entity Identifier, and (z) active registration status with SAM	District		WMA 11(b)(viii)(C)	Complete (renewed registration received from District on 1/5/2023). Certification included in the District Project Closing Certificate.
	8.	Representations and warranties of District are true and correct	District		WMA 11(b)(viii)(D)	Certification included in the District Project Closing Certificate.
	9.	No District MAE, or any event or condition that could reasonably be expected to have a District MAE, has occurred or arisen since the Effective Date	District		WMA 11(b)(viii)(E)	Certification included in the District Project Closing Certificate.
	10.	No component of the Project (1) has been authorized by the Congress to be carried out by the Secretary of the Army or by the U.S. Bureau of Reclamation of construction or (2) is a local cost share requirement for a project of the U.S. Army Corps of Engineers or the U.S. Bureau of Reclamation.	District		WMA 11(b)(viii)(F)	Certification included in the District Project Closing Certificate.